

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 46

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIDEAKI TOJO, HIDEO ISHIDA, HISAHU KUROTA,
HIDEO HIROE, TAKAO ARASAWA, SATORU YAMADA,
and NOBUYUKI OKITA

Appeal No. 1998-2804
Application No. 08/398,881

HEARD: October 25, 2001

Before HAIRSTON, LALL, and BLANKENSHIP, Administrative Patent Judges.

LALL, Administrative Patent Judge.

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This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection¹ of claims 8-13, 17-18, 21 and 35-39, all the pending claims in the application.

The disclosed invention is directed to an efficient method of forming a high quality, strippable protective film on the surface of a sprayed coated (painted) finish of a large-sized product such as an automobile. The strippable protective film is formed using a strippable liquid paint, and the method may preferably be implemented such that certain regions of the large-sized product's surface which need no protective film (such as windshield washer ejecting nozzles and lens covers for exterior lights) are covered with peelable masking materials to prevent fouling of same by the strippable paint. The strippable paint is applied before the automobile is shipped by the manufacturer or dealer to a

¹There were numerous amendments after the final rejection filed as amendment D (paper no. 13), amendment E (paper no. 18), amendment F (paper no. 26), amendment G (paper no. 35), amendment H (paper no. 39), amendment I (paper no. 40), and amendment J (paper no. 42). Only amendment E, amendment I and amendment J were entered into the record. See paper no. 19 and paper no. 43. All the other amendments after the final

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destination. At the destination the strippable paint is removed by washing the automobile before the automobile is sold to a customer. Further illustration of the invention can be obtained by the following claim.

Claim 8. A method of forming a protective film on a surface of a large-sized product finished with a sprayed coating by applying a strippable paint to a surface of said sprayed coating, said method comprising the steps of:

applying strippable paint to said product;

partially drying said strippable paint applied to said product; and

then finally drying said product.

The examiner relies on the following reference:

Swidler	5,281,436	Jan. 25, 1994
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Claims 8-13, 17-18, 21 and 35 to 39 stand rejected under 35 U.S.C. § 103² as being unpatentable over Swidler.

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Rather than repeat the arguments of appellants and the examiner we make reference to the briefs³ and the answer⁴ for the respective details thereof.

OPINION

We have considered the rejections advanced by the examiner and the supporting arguments. We have, likewise reviewed the appellants' arguments set forth in the briefs.

We affirm.

At the outset, we note that of all the issues stated on pages 8 and 9 of the brief only issue number III remains for this appeal. Moreover, only claims 8-13, 17-18, 21 and 35-39 are left for appeal. We will only discuss these claims in our decision. We also note that appellants elect these claims not to stand or fall together (brief at page 9). We will analyze the claims as necessitated by the arguments in the brief and the reply briefs.

The examiner's position regarding claims 8-13, 18 and 35-39 is that Swidler teaches cleaning and applying a strippable coating to

objects such as automobiles. The examiner contends, answer at page 3, that "[w]ashing and drying are conventional means of cleaning an automobile. Infrared and air drying are conventional methods of drying wet articles. To use one or both to dry wet articles would have been considered obvious...." Regarding claims 17 and 21, the examiner again notes Swidler's teachings as before. The examiner further asserts, answer at page 4, that "[it] is well known to use masking tape during painting to prevent coatings from being applied to undesired portions and to coat only the desired portions of an article. Thus, it would have been considered obvious ... to mask the portions not to be coated in Swidler."

Appellants argue, brief at page 17, that "the alleged conventional ... washing and drying steps are not supported by any evidence of record and are in fact *taught away from* by Swidler's actual disclosure." Appellants continue, id., that "[a]lthough vehicle owners may conventionally wash and dry their own vehicles via car washes and hand washes, the Swidler's reference does not generally pertain to care of individual vehicles by vehicle owners,

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Appellants also argue, brief at page 18, that "Swidler does not disclose or in any [way] suggest a method in which a strippable paint as sprayed onto the surface of a large-sized object is preliminarily dried and then non-preliminarily dried as set forth in independent claims 8 and 18 and dependent claim 32 (sic, 35)...., but again Swidler *teaches away from* the claimed method involving preliminary and non-preliminary (partial and final) drying steps because Swidler simply permits the applied coating compositions to air dry in a single, continuous step as discussed above."

We do not agree with the appellants' position. In their analysis and arguments, appellants have ignored the knowledge of an artisan relating to the art of applying a strippable paint, or other type of paint, onto a surface. Instead, appellants have argued against Swidler as a single reference by itself. We point here that it has been well established that an artisan must be presumed to know something about the art apart from what the references disclose (see In re Jacoby, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962)) and the conclusion of obviousness may be made

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those practicing in the art. See In re Sovish, 769 F.2d 738, 743, 226, USPQ 771, 774 (Fed. Cir. 1985).

We agree with the examiner that an artisan, having Swidler in front of him and combining it with the level of knowledge in the area of applying paints, including strippable paints, would have found it obvious to supply the steps of preliminary drying and final drying in the process of applying Swidler's strippable paint onto an automobile surface. Moreover, we note that partial drying in claim 8 does not explicitly recite any specific time duration for which partial drying takes place; therefore, in any assembly line where the paint is first applied and then taken to a drying room or area, the drying process would necessarily have a period of time, however small, where partial drying will take place before the main drying starts.

Regarding claim 9, (drying by infrared irradiation), claim 10 (drying by using hot air), claim 11 (drying in the environment of temperature of 60-90°C), and claim 12 (where the strippable paint is applied within space isolated from surroundings at a temperature

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Swidler gives an example of drying the paint which is different from the one claimed, however, Swidler does not proscribe an artisan from drying the strippable paint by using other means which are within common knowledge of an artisan and are equivalent to that disclosed by Swidler.

Therefore, we sustain the obviousness rejection of claims 8-13 over Swidler.

Regarding claim 18, the recited limitation of the step of "washing away contaminations from the surface of said sprayed coating of said product" is added. Contrary to the appellants' arguments, we find that an artisan, looking at the disclosure of Swidler where Swidler teaches that the surfaces are first cleaned off by washing (column 5, lines 39-47) before the strippable paint is applied, would have found it obvious to use water or other equivalent means of cleaning the surface before the strippable paint is applied. Therefore, we sustain the rejection of claim 18.

Regarding claims 35-39, the limitation of further having the "resulting temperatures of the surface of the large-sized product

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washed with water. We, therefore, sustain the obviousness rejection of claims 35-39 over Swidler.

Regarding claims 17 and 21, appellants argue that Swidler teaches away from the application of masking tape to the portions of the surfaces which are not desired to be painted. See second reply brief at pages 2 to 4 (paper no. 29) and the third reply brief at pages 2 to 4 (paper no. 34). We agree with appellants that Swidler does not show the use of masking tape to prevent the strippable paint from getting on the unwanted portions of the surface of the object. However, Swidler does not exclude a procedure of using masking tape to protect the unwanted portions of the surface from the paint. In our view, to use masking tape to prevent the painting of an unwanted portion of a surface, would have been obvious to an artisan, rather than first painting such a portion of the surface and then removing the paint. Therefore, we sustain the obviousness rejection of claims 17 and 21.

In conclusion, we have sustained the obviousness rejection of claims 8-13, 17-18, 21 and 35-39 over Swidler. Accordingly, the

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No time period for taking any subsequent action in connection
with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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PARSHOTAM S. LALL)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS
)	AND
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HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

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